

## **Faulk, Camilla**

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**From:** Stanley Phillips [stanleyphillips\_va@yahoo.com]  
**Sent:** Monday, March 21, 2011 8:25 AM  
**To:** Faulk, Camilla  
**Subject:** Letter re: CrR 4.11

March 21, 2011

Dear Ms. Faulk:

I am writing to express my strong opposition to proposed CrR 4.11.

As a Victim Advocate for the past decade, I disagree with the proposed rule change that would force crime victims and witnesses to be audiotape recorded against their will. CrR 4.11 is an exceptional mandate forced upon crime victims that is bad policy and opposed by the Victim Advocate Community.

The Washington State Constitution, Article I, Section 35 requires that victims be treated "with dignity and respect." CrR 4.11 violates this by taking away the victim's right to choose whether their voice is recorded.

One can only imagine being the parent of a child sexual assault victim who is called by staff at the Prosecutor's Office and told they will have to bring their child in for an interview with a stranger (defense attorney or investigator), which by the way will be audio-taped whether they like it or not, and they have no say in the matter. How many crime victims or parents of child victims would be willing to participate in the criminal justice system under this set of forceful rules?

The practical application of adopting CrR 4.11 could have a chilling effect on the cooperation of victims and witnesses to participate in the criminal justice system. The ripple effect of this would be criminal cases being dismissed, victims being denied justice, and their experience with the justice system soured.

In my experience, most victims and witnesses have already been subject to a thorough law enforcement audio taped interview prior to the case ever arriving at the Prosecutor's Office. This is provided to defense counsel, so many times they already have a transcript from the victim or witness. Despite maneuvering through a criminal justice system that was built around criminals and their needs and rights, crime victims enjoy only a fraction of benefits and rights. Forcing crime victims and witnesses to relive the traumatic events of a crime on an audiotape is blatantly unfair and unnecessary. This is especially true when the nature of the interviews often explore personal matters not directly related to the crime.

While I can appreciate the desire for a more formalized process, the reality is we already have one. While others have not seen the interview process abused by counsel, I have. I have seen first-hand defense attorneys use deposition and recording tactics as a means of intimidation. Proposed CrR 4.11 takes this a step further in eroding the right of the victim or witness to choose how the interview should take place.

We compare this to the Federal criminal justice system, where there is no expectation or requirement that the victim even participate in a victim interview. We take this a step further and cannot find any State that actually forces crime victims to be audio-taped against their will. Is this what Washington State wants to be known for?

It is my belief that the push for this rule is a thinly veiled attempt in Washington State to intimidate and compel

crime victims and witnesses to cooperate when the reality is, most already do. There is a reason Washington is a two-party consent State when it comes to audio-recordings. Why must we insist on taking this right away from victims and witnesses?

I strongly encourage the Supreme Court to oppose CrR 4.11, and instead take a stand for crime victims' rights in Washington State by giving them the choices they deserve in a system they never wanted to be in, in the first place.

Very Truly Yours,

*Stanley J. Phillips, MS NCA*

Nationally Credentialed Crime Victim Advocate